

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Appln. Serial No.: 09/269,607
Filing Date: July 26, 1999
Applicant: EBRINGER, Alan

Group Art Unit: 1645
Examiner: Navarro, A.M.
Attorney Docket No.: 78104.038

2003 DEC -4 PM 12:20

US PATENT & TRADEMARK
OFFICE

Title: **DIAGNOSIS OF SPONGIFORM DISEASE**

REQUEST FOR REFUND

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

To the Commissioner:

Applicant petitions the Commissioner of Patents to refund the extension of time fee (\$740) paid with the Petition for Four-Month Extension of Time filed November 20, 2003. Applicant requests that a refund, in the amount of \$740, be paid by check made out to their counsel, DeWitt Ross & Stevens, 8000 Excelsior Drive, Madison, WI 53717.

FACTS

I, Joseph T. Leone, having personal, first-hand knowledge of the following facts, do hereby declare and state as follows:

The present case was formerly being prosecuted by the law firm of Rosenblum, Parish, and Isaacs. The Power of Attorney to Rosenblum, Parish and Isaacs was rescinded and a new Power of Attorney and Change of Address was submitted in favor of the registered patent attorneys of DeWitt Ross & Stevens, namely Joseph T. Leone, Charles S. Sara, and Craig A. Fieschko. The new Power of Attorney and change of address was filed on June 12, 2002, and the receipt and entry of the same was acknowledged by the PTO in a communication mailed August 26, 2002, and attached hereto as Exhibit A.

On June 27, 2003, the Office issued a notice regarding discrepancies in the sequence list. The notice provided a one-month time period in which to file a response. Regrettably, that notice was inadvertently sent to prior counsel, not to DeWitt Ross & Stevens. Equally regrettably, prior counsel's forwarding order with the U.S. Postal Service had expired. Thus,

the notice was ultimately returned to the PTO, not having been delivered either to Applicant's prior counsel or Applicant's present counsel.

2003 DEC -4 PM 12:20
US PATENT & TRADEMARK
OFFICE

I, Joseph T. Leone, contacted Examiner Navarro (now in charge of the case) by telephone on Friday, November 14, 2003, to enquire as to the status of the application. At my request, Examiner Navarro graciously forwarded a copy of the June 27, 2003 notice to me by fax.

Wishing to get the case back into active prosecution as quickly as possible, my associate, Colin Fairman, prepared a response to the notice, which response was filed with the PTO on November 20, 2003. To ensure entry of our response, it was accompanied by a Petition for Four-Month Extension of Time and a check therefor in the amount of \$740.

In the interim, Examiner Navarro received in the U.S. Post the original June 27, 2003 notice accidentally sent to prior counsel. The returned notice was marked "Undeliverable - Forwarding Order Expired."

Examiner Navarro then (to his credit and with Applicant's thanks) issued a renewed notice which reset the mailing date to November 18, 2003.

Thus, Applicant's response filed November 20, 2003 addresses the issues raised in the November 18, 2003 renewed notice. Thus, Applicant's previously filed extension of time and fee (\$740) were unnecessary in view of the reset mailing date of the notice. Applicant therefore requests a refund of its extension of time fee (\$740) previously paid.

Applicant's undersigned counsel also thanks Examiner Navarro for his prompt and professional attention to the matter of the misdirected notice.

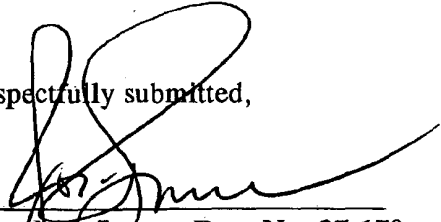
I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application, any patent issuing thereon, or any patent to which this petition for refund is directed.

PATENT MAINTENANCE
DIVISION

-3-

2003 DEC -4 PM 12:26

Respectfully submitted,


Joseph T. Leone, Reg. No. 37,170
DEWITT ROSS & STEVENS S.C.
8000 Excelsior Drive, Suite 401
Madison, Wisconsin 53717-1914
Telephone: (608) 831-2100
Facsimile: (608) 831-2106

I hereby certify that this correspondence is being
deposited with the United States Postal Service as
first class mail in an envelope addressed to:

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Date of Deposit: 11-24-03

Signature: Maecia Layton